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U.S. DISTRICT COURT  
DISTRICT OF UTAH

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**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION**

**STATE OF UTAH, et al.,**

**Plaintiffs,**

**V.**

**DONALD L. EVANS, United States  
Secretary of Commerce, et al.,**

**Defendants.**

)  
 )  
 ) Civil No. 2:01-CV-000292G  
 )  
 ) **DEFENDANTS' MOTION**  
 ) **TO DISMISS OR, IN THE**  
 ) **ALTERNATIVE, THEIR**  
 ) **CROSS-MOTION FOR**  
 ) **SUMMARY JUDGMENT**

For the reason set forth in the accompanying memorandum, Defendants Donald L. Evans, United States Secretary of Treasury, and William G. Barron, Acting Director, United States Census Bureau, hereby respectfully move this Court to dismiss this action under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) or, alternatively, for judgment as a matter of law pursuant to Federal Rule of Civil Procedure 56 and DUCivR 56-1.

In support of their Motion, Defendants incorporate and file herewith their Consolidated Memorandum in Support of their Motion to Dismiss, or in the Alternative, their Cross-Motion for Summary Judgment, and in Opposition to Plaintiffs' Motion for Summary Judgment and the

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exhibits attached thereto, the supporting Declarations submitted by Howard Hogan, Chief of the Decennial Statistical Studies Division of the Census Bureau, and Joseph Waksberg, former Associate Director of the Census Bureau and currently Chairman of the Board of Westat, Inc., and the Administrative Record filed by Defendants in this case.

Respectfully submitted,

STUART E. SCHIFFER  
Acting Assistant Attorney General

A handwritten signature in black ink, appearing to read 'S. Schraibman', written over a horizontal line.

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Dated: July 11, 2001

**CERTIFICATE OF SERVICE**

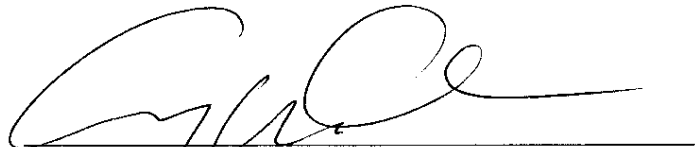
I hereby certify that on July 11, 2001, a copy of the foregoing Defendants' Motion to Dismiss or, in the Alternative, their Cross-Motion for Summary Judgement was sent by Federal Express to:

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